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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,564

12/05/2003

Steve D. Huseth

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7590

11/15/2006

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EXAMINER

ZIMMERMAN, BRIAN A

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,564

Applicant(s)

HUSETH ET AL.

Examiner

Brian A. Zimmerman

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2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Status of Application

In response to the applicant's amendment received on 7/31/06. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 1-31 are unpatentable for the reasons set forth in this office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 7/31/06 has been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

1. Claims 1,2,7,13,14 and 26-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Berardi (2003/0167207).

Berardi shows a method for providing access to a financial transaction, where the system includes two versions of the transponder 102. The first embodiment of transponder 102 does not include a fingerprint reader (figure 2); this is interpreted as a badge. The second embodiment of transponder 102

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includes a fingerprint reader (figure 9); this is interpreted as a keyfob. The figure 9 transponder sends the fob ID (stored in memory 214) with the fingerprint so both can be authenticated. When the data is read from the transponder, a comparison is made to authorize financial access; this meets the limitation of determining if the received code is authentic and providing access upon authentication. If the data is from a badge, the authorization step compares account data (or the transponder ID), paragraph 59. If the data is from a keyfob the authorization step compares fingerprint data, paragraph 141. It is the examiner's position that in order to compare the received data from the figure 9 transponder with stored fingerprint data, a decision inherently is made that the data received includes fingerprint data. This meets the limitation of determining if the code is from a badge or keyfob.

Claim Rejections - 35 USC § 103

2. Claims 4,5,8,10,11,15,16,18,20,22,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berardi (2003/0167207) as applied to claims 1 and 2 above, and further in view of Fuku (6868170).

Berardi shows a method for providing access where the system includes two versions of the transponder 102. Berardi shows fingerprint data being compared, but does not exactly teach a specific method or apparatus to perform such function.

In an analogous art, Fuku shows a security system that extracts fingerprint data from a sensor 11 and converts the fingerprint data into digital data 12 that

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can be compared to data in a storage unit 13 for access authorization. This converting a comparing allows for easy processing of the fingerprint authentication process. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the fingerprint authorization process (and elements) in the Berardi system since it would provide processing of the desired fingerprint authorization of Berardi.

3. Claims 3,6,9,12,17,19,21,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berardi and Fuku as applied to the claims above, and further in view of Fitzgibbon (2003/0210131).

In an analogous art Fitzgibbon teaches an access security system where a transmitter can send codes to a garage door for access authorization. The portable transmitter can additionally include a fingerprint reader to send information regarding the user's fingerprint, also for authorization. Fitzgibbon is cited for teaching that in this type of system, the use of rolling codes can improve the security of the system. See figure 5.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used rolling codes in the above-modified system since rolling codes can increase the security of an access system.

Response to Arguments

Applicant's arguments filed 7/31/06 have been fully considered but they are not persuasive.

The applicant argues that the processing performed by Berardi's reader 104 is not dependent on whether the fob is one like that of figure 2 or one like that of figure 9. If the signal from the fob to the reader is a fingerprint fob (figure 9) it (the signal) can include the fingerprint for further reference, this embodiment will be referred to as the second embodiment of figure 9. This second embodiment of figure 9 is disclosed by Berardi at the end of paragraph 141, which states:

Alternatively, the comparison may be made with a digitized fingerprint stored on a database maintained by the fob (102) transaction account provider system (not shown). The digitized fingerprint may be verified in much the same way as is described above with respect to the PIN.

When the signal includes the fingerprint, the reader (which includes the transaction account provider) is responsible for authenticating the fingerprint. Therefore, when a fob like that of figure 2 is presented the PIN is authenticated and when a fob like that of the second embodiment of figure 9 is presented the fingerprint is authenticated.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

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See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A. Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on 7 am to 4 pm E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Brian A. Zimmerman
Primary Examiner
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BZ